

S E A T T L E P O L I C E D E P A R T M E N T

*Office of
Professional
Accountability*



Report on Use of Force
Complaints Received in
2003, 2004, and 2005

January 2007

EXECUTIVE SUMMARY

This Report looks at citizen complaints about use of force by SPD officers over a three-year period, 2003 through 2005. Use of force complaints comprise a steady and significant portion of citizen complaints investigated by the Office of Professional Accountability Investigation Section each year, and the number and percentage of force complaints and allegations are set forth.

Beyond the numbers, though, lie insights into underlying factors that contribute to the complaints. The purpose of a qualitative review of force complaints over a period of time is to look for recurring themes and patterns, and identify opportunities for improvements in policy, training, supervision, outreach, and education. Each complaint yields information that the Seattle Police Department can use to enhance performance and relationships, advancing trust and accountability along the way.

Major Findings

OPA's review of 268 force complaints identified the following major findings:

- **Significant number of complaints involving multiple officers**
- **Few complaints involving substantial force and/or injury**
- **Escalation of incidents by officers occurred in a number of cases**
- **Complaints in which no force was reported by the officer are on the rise**
- **Complaints of force while in custody continue**
- **A high proportion of complaints about force are made by citizens of color**
- **Issues related to use of the taser**

New Policy Recommendations

The Report discusses past recommendations made by OPA related to training and policy revision, and outlines two major policy recommendations:

- **Race and Use of Force:** OPA recommends a strong Department response and effort toward discussion and study of the issue of race and use of force.
- **Heightened Response to Critical Incidents:** OPA recommends a response by OPA to the scene and authority to initiate investigations of critical incidents.

The OPA welcomes discussion of this Report and its findings and recommendations.

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INTRODUCTION

The investigation of complaints by citizens alleging unnecessary or excessive force by police officers is one of the most important roles of the Office of Professional Accountability. Almost all such complaints receive a full, formal investigation by the Investigation Section of the OPA. And, averaging about 55% of OPA-IS investigations over the past few years, unnecessary/excessive force complaints represent a significant, recurring portion of the OPA-IS workload.

They are also one of the most challenging categories of complaints to investigate. Frequent complaints build experience, and experience builds investigative skill, but fundamental limitations remain. Begin with the basic fact that police officers are authorized, empowered, equipped, and trained to use physical force. Factor in, too, that police officers are also authorized and trained to use methods that involve physical contact, and sometimes, physical discomfort. These methods and contacts include escort holds, control holds, separating or restraining combatants, tackling a fleeing subject, turning a subject against a car or wall for a search, a pat down search, and applying handcuffs. Add to this backdrop the simple fact that people do not like to be touched, controlled, or restrained, and they certainly do not like to be hurt.

Now, layer onto this essential paradox the effect that adrenaline, confusion, perception, drugs, alcohol, mental instability, and both the compression and passage of time have on the ability to accurately recollect and describe events. These are highly charged events, and they usually happen very quickly, and yet there will often be a fine line between necessary and unnecessary, and between appropriate and excessive. Was the subject turning to surrender, or to strike? Was he keeping his hands tucked beneath him to reach for a weapon, or merely to protect his face from the ground? Was she slammed to the ground, or brought to the ground in a controlled takedown? Does the absence of a complaint at the scene prove that the complainant knew the force was justified, or just that he was scared? Physical evidence is often either absent or ambiguous. Does the abrasion on the forehead support or detract from the complainant's allegation that he was punched?

Even when completely truthful, and experience shows this is usually the case, both the complainant and the officer have different experiences, expectations, and training, conscious and unconscious biases, and significant motivation to depict events in the light most favorable to them. The investigator was not there. The commanders were not there. The civilian reviewers were not there. Cameras do help in some cases, and wider availability would be desirable, but in a majority of complaints, the investigative and review process sifts through a jumble of facts, records, pictures and statements to reach a conclusion. And even then, the conclusion is about whether the employer's policy was violated. The finding typically does not speak to whether the complainant's

grievance was legitimate, or motivated by personal gain or malice. Nor does the finding typically speak to whether the use of force could have been avoided, or minimized.

Since the value of review of individual complaints of force is thus limited, it is important to regularly step back and take a wider view. This report summarizes the results of a qualitative review of use of force complaints investigated by OPA in 2003, 2004, and 2005. Placing the complaints in context is important, as citizens make complaints to OPA about use of force in only about 12% of reported force incidents¹, but this report is not about the numbers.

Instead, the intent of the qualitative review of these complaints was to look for policy, training, investigation and review issues, and at issues that would benefit from further discussion and study. The perspective brought to bear was not that of an expert on defensive tactics or conflict management, or of a statistician, but that of a civilian oversight practitioner, reviewing with an eye toward substantive organizational reforms that advance law enforcement performance and accountability.

¹ This ratio is imprecise, and the true ratio is likely lower than 12%, as in a significant percentage of complaints, there was no force reported by officers.

PART I: USE OF FORCE

A. SPD POLICY ON USE OF FORCE

The relevant policies are set forth in SPD General Orders Manual, Section 1.145 – Use of Force. The policy is attached as Appendix A, and readers are encouraged to review it in its entirety. Set forth below is the applicable portion of section of most direct relevance, Policy:

Officers may, in the performance of their official duties, use only the amount of force necessary and reasonable to effect the lawful purpose intended. When determining the necessity for force and the amount of force required, officers shall consider known circumstances, including, but not limited to, the level of threat or resistance presented by the subject, the danger to the community, and the seriousness of the crime.

The policy provides the following relevant definitions:

- A. Necessary: No reasonably effective alternative to the use of force appeared to exist, and the amount of force used was reasonable to effect the lawful purpose intended.

- E. Physical Force: Any use of physical force other than that which is considered deadly or less lethal force, which causes an injury, could reasonably be expected to cause an injury, or results in a complaint of injury...
 - 1. Unless they fall within the definition outlined above, the following actions are not considered “physical force”: (a) Unholstering a firearm while executing lawful duties; (b) Escorting or moving a non-resisting subject; (c) Handcuffing with no or minimal resistance; (d) Approved crowd control tactics during demonstrations.

SPD Manual Section 1.145, I (A), (E).

Officers using physical force while performing any law enforcement related activity (on- or off-duty, inside or outside the City) are required to complete a Use of Force *Statement*. Section 1.145 XI (A).

Summarizing the policy broadly, officers are expected to only use force when they have to, and to use the least amount of force possible. Officer statements on use of force revolve around the level of threat or resistance presented by the subject. OPA investigations examine the available evidence to determine whether officer(s) used force, and, if so, whether the use of force was within policy.

B. SPD TRAINING ON USE OF FORCE

The Department maintains a vigorous training program for officers in the use, and avoidance of, force. Each year, officers undergo mandatory training through the “Street Skills” program. Each weeklong Street Skills course includes blocks on Best Practices, which reviews law and policy on use of force, and on Defensive Tactics. The curriculum for each block is usually updated each year, and approved by the Department’s command staff.

Although the use of force “continuum,” in which the type of force escalates from hands to strikes, kicks, and impact weapons, is taught in the Washington State Criminal Justice Training Center’s Basic Law Enforcement Academy, SPD’s Advanced Training Unit does not incorporate a use of force continuum into its formal curriculum. Instead, officers are instructed on all lethal and non-lethal force, and how the types of available force, can be applied appropriately. Use of force training also includes legal updates on force utilization.

In addition to the training provided in Street Skills, the Department also conducts separate training on less lethal weapons, including the taser.

The Department’s Use of Force Training Program is highly regarded. The Defensive Tactics integrated system and training method was adopted by the Basic Law Enforcement Academy at Washington’s Criminal Justice Training Commission, and instructors from the Department’s Advanced Training Unit are frequent presenters to national audiences.

OPA maintains its practice of regular interaction with the Department’s Advanced Training Unit. For example, responding to recommendations made by OPA and by the OPA Auditor, the Defensive Tactics instruction block for 2006 was revised to include a new section emphasizing and instructing on verbal de-escalation skills.

C. SPD LESS LETHAL PROGRAM

Less lethal force is described in the SPD Manual as: “A level of force such that the outcome is not intended to cause death. Includes the Taser, the baton, the beanbag shotgun, OC spray, or other riot control agents.” Section 1.145.1(D).

The policy on use of less lethal force provides, in relevant part:

(A) An officer is justified in using less lethal force in circumstances where the officer reasonably believes that other force options would be ineffective or impractical.

(B) Less lethal force may be used to overcome a subject’s combative or active resistance.

Section 1.145.X.

Any use of less lethal force is subject to mandatory reporting requirements. SPD 1.145.XI.

More information on the Department’s less lethal program can be found at <http://www.cityofseattle.net/police/Publications/Progress/LessLethal2002.PDF>

D. SPD USE OF FORCE

SPD officers reported using force in 748 incidents in 2003; 751 in 2004; and 742 in 2005. These numbers translate to a use of force rate of 0.17% for 2003; 0.153% for 2004; and 0.153% for 2005 relative to total public contacts.² As noted in the Operations Report on Use of Force, these numbers reflect that, from 2003 to 2005, approximately 99.84% of encounters that SPD officers have occur without the use of force. Even relative to arrests, the use of force rate remains quite low, averaging 3.05% over a two-year period.

² The use of force rate is obtained by dividing the number of use of force incidents by the total number of public contacts involving SPD officers. Total public contacts are the sum of dispatched calls, on views, traffic stops and adult and juvenile arrests.

PART II: CITIZEN COMPLAINTS OF UNNECESSARY OR EXCESSIVE FORCE – THE BASICS

A. DEPARTMENT AND OPA-IS PROCEDURES

Department Procedures

SPD policy calls for an extensive supervisory screening and documentation process for all reported incidents of use of force by officers. The process is outlined in detail at SPD Manual Section 1.145.XII, Appendix A. Required procedures include gathering officer statements, taking photographs of the suspect, a listing of all witnesses, and an interview of the suspect(s). The supervisor is also asked to indicate if the force used was within policy.

This information is compiled in a “Use of Force packet,” which is forwarded through the chain of command’s bureau commander. Each level within this chain is asked to review and indicate if the force described was within policy. Following bureau command level review, each use of force incident is entered into a database maintained by SPD Records Management. This database feeds into the Department’s Early Intervention System (EIS), and five reported uses of force within a six-month period will trigger an initial review by the EIS Coordinator.

OPA-IS Procedures

Citizens may make complaints of unnecessary or excessive force at any time, and in any manner. Complaints may be made in-person, by letter, over the phone, or via website or e-mail. Citizens who are reluctant to complain directly to sworn personnel may opt instead to make their complaint through the Citizens Service Bureau (CSB), operating out of city hall. Complaints may also be made through third persons, or even anonymously. In addition, representatives or companions may accompany complainants at any stage of the complaint process.

Once received, the classification is routine: if a complaint includes an allegation that force was used unnecessarily, or excessively, the complaint will be designated as an OPA-IS case, and sergeants assigned to OPA-IS will conduct the investigation. The citizen may make other allegations, such as failure to safeguard personal property, rudeness, or bias, but the inclusion of an allegation about use of force invariably receives the OPA-IS designation and full investigation.

A use of force complaint prompts several immediate investigative steps. If the complainant is in custody, the investigators will attempt to contact him or her right away. If the incident occurred recently, investigators will attempt to contact the complainant personally to view and photograph any visible marks or injuries. In addition, if the complainant states that he or she received treatment, investigators will try to arrange for the complainant to sign a release for relevant medical records.

In addition, investigators will collect all paperwork connected with the incident, such as arrest report, radio transmissions, 911 records, and, of course, a use of force packet. Investigators will also determine whether any video of the incident is available, either from in-car cameras or other sources, and will secure names and contact information for all involved parties and witnesses. In some cases, investigators will examine other physical evidence, such as cars, or visit and photograph the scene.

The complainant, named employee(s), and sworn or civilian witnesses will be interviewed, and tape recordings of their interviews will be transcribed and included in the file. If a complainant is unsure of the name or identity of an officer, they may be shown a montage of photos. Throughout the course of the investigation, the OPA-IS lieutenant supervises the investigators.

Once the lieutenant has approved the investigation as complete, the OPA-IS captain reviews the case and analyzes the evidence against the applicable policy. Applying a preponderance of the evidence standard, the captain prepares a thorough disposition memo, proposing a finding on each allegation. The basic findings are: sustained (the evidence supports that a policy violation occurred); not-sustained (there is not a preponderance of the evidence to prove or disprove the allegation); exonerated (the evidence establishes that the officer's actions were lawful and proper); and unfounded (the evidence establishes that the incident did not occur as described or alleged).

An additional finding, newly established in 2004, is "Supervisory Intervention." This finding is used where, although there may have been a violation of policy, the violation was not willful, and/or the violation did not amount to misconduct. The chain of command, OPA, and the Chief of Police will confer to determine an appropriate remedial response, which often includes additional training and/or counseling.

Finally, the OPA occasionally makes *administrative* findings on complaints. These include Administratively Unfounded, Administratively Exonerated, and Administratively Inactivated. These cases may be reopened upon the discovery of new information or evidence.

Review Process

As with all complaints, completed force investigations are reviewed by the OPA Auditor prior to closing. The Auditor may ask for additional investigation.³ In addition, the Auditor also may give frequent input into the analysis of the evidence and policy and/or training issues as well.

Again, as with all complaints, completed force investigations are also reviewed by the named employee(s) chain of command. The captain and/or bureau commander occasionally add background information, observations, or suggestions about tactics, training, or policy.

The OPA Director also reviews all completed investigations. Like the Auditor, the Director may request additional investigation. On cases with recommendations other than sustained, the Director makes a final finding as to each allegation.

Finally, on any case with a recommended finding of “sustained” for any allegation, the Department’s Human Resources Legal Advisor and the Chief of Police also review the complete investigative file. The Chief meets with the OPA Director, OPA Captain, the named employee’s bureau commander and captain, and the HR Legal Advisor to discuss the case. Each participant has the opportunity to share his or her views as to whether the evidence supports that a policy violation occurred, and if so, what is the appropriate discipline or other remedy.

³ It must be noted that there are frequently time constraints on the Auditor’s ability to request additional investigation. The 180-day deadline for imposition of discipline precludes some additional investigation. In addition, the Auditor occasionally questions the utility of follow-up interviews several months after the original incident. OPA believes the quality and credibility of its work is enhanced by both timely results and meaningful review, and has thus focused significant efforts on measures designed to shorten investigative timelines.

B. OPA-IS COMPLAINTS OVER A 3-YEAR PERIOD

Use of Force Complaints	
Year	Totals
2003	99
2004	79
2005	90

The 2003 number includes 12 arising out of protests and demonstrations.

Use of Force Allegations	
Year	Totals
2003	167
2004	144
2005	165

One case may include allegations against several officers.

Use of Force – Incidents Reported		
Year	Totals	Percentage
2003	748	13.2%
2004	751	10.5%
2005	742	12.1%

Sustained Use of Force Allegations	
Year	Totals
2003	6
2004	13*
2005	7**

*2004 (5) Sustained; (8) Supervisory Intervention

**2005 (3) Sustained; (4) Supervisory Intervention

(2005 cases included two violations of Failure to Report Force

Percentage of Use of Force Complaints Sustained	
Year	Totals
2003	6%
2004	16%
2005	7%

Comparable data from other jurisdictions is difficult to obtain. One survey by the Justice Department's Bureau of Justice Statistics, looking at complaints of excessive force filed in 2002 with state and local law enforcement agencies that have at least 100 full-time officers, found that eight percent of complaints turned up enough evidence to justify discipline of an officer. The survey can be found at <http://www.ojp.usdoj.gov/bjs/abstract/bjsg02.htm>.

Reported Use of Force Complaints by Precinct			
Precincts	2003	2004	2005
West	30	19	36
North	10	7	10
South	24	10	8
East	15	20	15
Southwest	4	11	6
Other	6	6	6
Unknown	10	5	9
TOTAL	99	78	90

PART III: TRENDS AND MAJOR FINDINGS

A. MULTIPLE OFFICERS AND LARGE DISTURBANCES

As previously noted, each separate complaint of unnecessary or excessive force may – and often does – have multiple allegations. This happens for two reasons: (1) the complainant made allegations in addition to those of unnecessary force; and/or (2) the complainant made allegations of unnecessary or excessive force against more than one officer. For purposes of this report, the latter reason is relevant.

In each year from 2003 through 2005, a significant percentage of force complaints involved more than one officer.

	2003	2004	2005
1 Officer	44	43	41
2 Officer	22	46	27
3 or More	20	18	19

In fact, in 2005, more often than not, a force complaint involved more than one officer, and this was true about half of the time in 2003, and 43% of the time in 2004.

That force complaints frequently involve multiple officers should not be surprising. For the safety of both the officers and subjects of force, two officers are preferable to one. Typically, a resistive subject can more readily be subdued, with less force, or a lower level of force, by two or more officers than by one. And, given the density of the urban area that Seattle polices, back-up officers are generally quickly available.

Yet the frequency of force complaints involving multiple officers may have additional causes, as well as implications. First, it is not uncommon to hear concerns expressed by complainants about the number of officers that responded to the incident, or assisted in their arrest. The presence and participation of multiple officers seems to create a perception by citizens of an overreaction by police, which in turn affects their perception of whether the force applied was necessary and/or excessive. Thus, citizens may be more likely to complain about force where more than one officer was involved.

This perception by citizens may also be at work in a subset of multiple officer cases involving “large disturbances.” In fact, it has been suggested that an increase in use of force *allegations* may be attributed to a rise in large disturbances generating a significant police response. “Large disturbance” is not an official designation used in

police work, but the phrase is often used to describe a fight or scene with multiple combatants or involved parties.⁴ The typical large disturbance in Seattle would be a scene outside of a nightclub, sporting venue, or private party, or a domestic dispute involving several family members, neighbors, etc.

Accurate conclusions about the relationship between large disturbances and force complaints would require information beyond that available through OPA records, i.e., on the number of large disturbances involving force, but no complaints, or the number of large disturbances generally, whether or not force was used. The Department does not maintain such information. A look at OPA statistics alone, however, does not support a conclusion that a rise in large disturbances is a significant driver of force complaints. Though the criterion for “large disturbance” is necessarily imprecise, a review of force complaints revealed 5 in 2003, 7 in 2004, and 6 in 2005 that would clearly qualify, with no clear relationship to the number of complaints for that year.

To summarize, although the data may be imprecise, it can be reasonably presumed that multiple officer force incidents may be more likely to generate complaints, and that complaints arising out of large disturbances will entail multiple allegations. Armed with this information, officers, and especially supervisors at these scenes, would be wise to make additional efforts to explain their actions fully to citizens who were subjects of or witnesses to force.

B. SIGNIFICANT FORCE AND/OR INJURY

In the majority of complaints to OPA of unnecessary or excessive force, the subjects have minor or no injuries. In fact, review of force complaints from 2003, 2004, and 2005, identified just 16, 12, and 7 cases in which injuries to the subject required any kind of medical treatment⁵. This amounts to 16%, 15%, and 8% of the complaints of use of force for each year. These low numbers mean that the Department’s force training is effective in minimizing injury, and the public should be reassured.

Not surprisingly, a strong correlation was found between use of significant force and/or injury and subject flight and officer pursuit, on car or foot, with seven and six events in 2003 and 2004⁶, respectively of the significant force and/or injury cases in 2003 & 2004, 43% and 50% of such events involved pursuits.

⁴ The Department does not generally use the term “large disturbance” to describe a protest or demonstration, and complaints arising out of these events were not included in the tally.

⁵ Though, by policy, SFD personnel must respond to the scene to remove taser darts, these numbers do not include taser complaints unless injury in addition to that at the taser site was established.

⁶ There were four pursuits noted in 2005 complaints, but their relationship to significant force/injury was not noted.

Though significant force and injury is gratifyingly rare, all such incidents merit heightened review. Included in this report is a recommendation for a heightened response and review protocol for significant force events.

C. ESCALATION

It is a truism that the only thing predictable about police-citizen encounters is their unpredictability. Officers are appropriately trained to approach every situation with caution, and to respond quickly to perceived and actual threats. Every officer will tell you, and tragic statistics on line-of-duty deaths support, that the most innocuous of circumstances can turn violent in a heartbeat.

Nonetheless, it is incumbent upon departments and the agencies that oversee them to carefully scrutinize applications of use of force on subjects who had committed no underlying offense. The presence and communication skills of officers differ, just as they do among the general population, but police departments need to stress that force is a last resort, and make every effort to train and cultivate de-escalation skills.

During the reporting period, several cases were identified where the tactics and/or attitude of the officer may have contributed to the need to use force in the first place. This is not the same thing as saying that the force was unnecessary or excessive; indeed, in most cases where possible escalation issues were identified, the force was found to be within policy. Rather, the reviewers noted missed opportunities to defuse or minimize conflict. During these years, both the OPA Director and OPA Auditor advanced concerns about escalation of incidents.

In addition, the problem of recurring complaints about force against “bystanders” was also raised in policy and training recommendations by OPA. Tracked for the first time in 2005, the possible escalation in incidents include a subset of eight complaints in which force was applied on an “onlooker,” or a citizen observing or commenting upon – and arguably interfering with – police activity.

This fact pattern was singled out as a specific category of incidents in which the citizen had committed no underlying offense, but conflict escalated to the point that some degree of force or other physical contact was used. These situations are another example of disconnect between the public’s expectations and police training. Citizens claim a strong entitlement to observe police activity, and often see nothing wrong with inserting themselves into the situation in an effort to help either the officer or the subject. At the same time, officers are trained to focus on the subject they are dealing with, and taught that it is a safety risk to allow distractions or turn their backs.

Reviewers are mindful that identification of possible escalation incidents is a highly subjective exercise, and one done from the comfortable confines of an office with time for reflection and the extraordinary luxury of hindsight. Still, with an eye toward improved police community relations and minimizing application of force – and subsequent complaints - supervisors, trainers, and reviewers should not shy away from reviewing incidents with a critical eye.

So far, the Department has demonstrated a willingness to engage in this type of review. Following referral by Chief Kerlikowske of OPA Director and Auditor recommendations to Training, Street Skills incorporated specific instruction aimed at de-escalation and bystander issues into the revised 2006 curriculum.

D. FORCE NOT REPORTED

A clear trend identifiable upon review of the 2003, 2004, and 2005 use of force complaints is the significant number of, and dramatic increase in, the number of complaints in which officers did not report the use of force.

Percentage of Complaints in which Officers Denied Use of Force		
2003	2004	2005
18%	38%	40%

This is not, as it may first appear, a question of false accusations by citizens, or cover up by officers. The issue is, in large part, one of semantics. In many cases, the officers do not claim that no physical contact occurred, but rather that the contact was minimal, routine, and not likely to cause injury, thus not “reportable” use of force. Contact by the officer was described variably as: “minimal,” “escort hold” or “guided arm,” “grab,” “moved to stomach,” “pulled,” “supported walk,” and “gooseneck escort.” In several of the cases in which a push to the ground was alleged, officers countered that the subject fell on his or her own. Two officers reported accidental contact to subjects, one from his bike, and another against a wall while escorting the subject. Officers claimed this type of minimal contact in 21, or 23% of the investigated use of force complaints.⁷

In other cases identified in 2004 and 2005, however, even the contact admitted by officers arguably met the reporting standard, and the decision not to report was questionable. In one such 2004 case, a complainant was pulled out of a window. The officers admitted to pulling her out of a car, but did not feel that this action amounted to reportable force. In another, an officer admitted “light” knee strikes to the thigh as a

⁷ Comments and numbers taken from 2004 use of force complaint investigations.

distraction technique, but did not report the force because it would not have caused injury.

A clear area of confusion about policy and practice exists with regard to “takedowns.” In several of the cases, the circumstances could reasonably have been expected to result in injury, or a complaint of injury, thus triggering the need to report. However, officers are accustomed to thinking of a takedown as a routine arrest tactic, and not as a use of force.

In 2005, OPA identified 10 cases in which force should have been reported, or was on the borderline of needing to be reported. It was noted that in many of these borderline cases, a supervisor reviewed the circumstances and determined that no use of force report was required. The Department sustained two Failure to Report Use of Force allegations in 2005.

OPA-IS has stressed the issue of failure to report use of force in individual cases and in briefings with commanders. Commanders have been reminded that the use of policy directs when force *must* be reported, but that there are more cases where it *should* be. There are significant benefits to officers and citizens in the reporting of close or questionable use of force incidents.

Additional directives, reminders, training, and clarification of existing policy are needed in this area to ensure more consistent and uniform reporting practices. In particular, the issue of “takedowns” requires clarification. Given that takedowns seldom entail exceptionally gentle landings on soft surfaces, it seems reasonable to conclude that even a routine takedown could result in injury, and trigger mandatory reporting.

Beyond the need for additional direction and training for officers, there is a clear need for better communication and public education in this area. Citizens do not expect to be touched, do not like to be touched, and consider even relatively minor physical contact an affront. The Department should consider ways to communicate with the general public on the training and perspectives of officers in the field. More particularly, officers and supervisors at scenes should be mindful that citizens do not share the same “all-in-a-day’s-work” attitude toward physical contact that officers do. Taking the time to fully explain their actions, whether before, during, or after the contact, should go a long way toward alleviating the perception gap that leads to complaints.

E. COMPLAINTS OF FORCE WHILE IN CUSTODY

Complaints of force allegedly occurring while the subject was in-custody appear to be on the rise. Though just six were noted in 2004, about 6%, there were fourteen such allegations in 2005, comprising 16% of complaints. Though not tracked in total for 2003 use of force cases, OPA did advance a policy recommendation in 2004 citing a “growing list [of 2003 cases] in which citizens allege they were mistreated by officers while they were in custody at police precinct facilities...”

Though some of the precincts have cameras, the cameras do not tape or recorded events. OPA noted that recorded video would be very helpful in investigating individual cases, and in advancing accountability and public trust. Installation of video cameras in each of the precincts was recommended. Chief Kerlikowske accepted this recommendation, however, the cameras have yet to be installed.

F. COMPLAINANT DATA

Race

Perhaps the most striking data to emerge from the review of 2003, 2004, and 2005 use of force complaints was the prevalence of complaints from citizens of color.

Use of Force Reported by Citizens of Color		
Years	Complaints	Percentage
2003	45	45% *
2004	33	42%
2005	47	52%

* with 12 protest cases removed, 52%

It must be stressed that it is not possible to draw reliable or meaningful conclusions from this data. The most significant limitation is that, until 2006, SPD did not track the race of subjects in reported use of force incidents. This precludes comparison of the rate of citizens of color who complain about force to that of citizens of color subjected to force.

However, the apparent stark disproportion represented by the force complainant statistics mandates additional study and analysis. More importantly, however, and as a

matter of greatest urgency, the numbers themselves should provoke immediate discussion at all levels within the Department.

Sex

Another finding of note was that of a high proportion of female complainants noted in the 2005 complaints. Females made twenty-two of 90 complaints, or 24%, to OPA that year. This was not tracked in 2003 and 2004.

This finding is consistent with a persistent theme identified that dissonance between cultural expectations and police training is the best predictor of complaints about use of force. Citizens expect a gentler, hands-off approach with females, while police are trained to respond to actions and behavior, regardless of sex. The high number of female complainants is another issue worthy of further study. In the meanwhile, supervisors and officers aware of this information would be well-advised to take it into consideration on the street, and make extra efforts to discuss and explain their response to female subjects.

G. TASERS

Force complaints in 2003, 2004, and 2005 involving the use, or threatened use, of tasers were carefully reviewed. The number of such complaints, and the percentage in relation to total complaints of force, remained relatively constant for the years reviewed:

Use or Threatened Use of Tasers		
Years	Complaints	Percentage
2003	10	10%
2004	7	9%
2005	8	9%

Citizens complain to OPA about taser use relatively infrequently, given the rate of deployment. For example, tasers were deployed in 187 incidents in both 2004 and 2005, yet only about 4% of these deployments resulted in complaints.

Due to these limited numbers, an in-depth review of the efficacy or appropriateness of taser use is beyond the scope of this report. However, in the past several years, OPA has made inquiries, shared observations, and made recommendations to the Department based on complaints reviewed. Following the review for this report of a

three-year history of complaints, the following observations and recommendations are noted.

Multiple Applications

In about fifty percent of complaints about unnecessary or excessive taser application, 12 of 25, the taser was deployed multiple times. It is not known whether a similar ratio exists in the total taser applications reported department wide.

The limited data from the complaints about taser use does challenge the myth of the taser as a super-weapon that smoothly and immediately renders subjects helpless. The multiple applications were not found to be excessive, and were thus declared necessary. It is reasonable to continue to critically evaluate whether tasers are working in the field as intended. A continued high rate of multiple applications may pose safety or public perception problems that may diminish the much-touted benefits of the taser as a high-efficiency weapon. Policy and training may also need to address the question of when use of the taser in a particular incident should be abandoned in favor of other force options.

Answering these questions entails wrestling with complex issues and balancing competing interests, and OPA does not take a position on their outcome. Certainly, emotional responses and overreactions do not serve the public's best interest. However, the issues certainly merit, and OPA recommends, further discussion and analysis by the Department and the community.

OPA complaints within the review period also evidenced a related issue about the degree of control over the number of cycles discharged, and/or accuracy in reporting that number. In several cases, questions remained about the number of times a cycle of electricity was discharged, and for the length of the cycle. A secure dataport maintained in each taser records each discharge, but in practice, facts are less precise. Officers may accidentally discharge cycles of electricity, subject movements can purportedly result in multiple taser sites from even one application, and the data does not show which, if any, of the discharges affected the subject, nor for how long.

These issues affect the analysis of the relative advantages of the taser, and should be factored into ongoing discussion and debate over taser policy and use.

Use on Passively Resisting, or Handcuffed, Subjects

In several cases, complaints were made that the taser was deployed on a handcuffed subject. However in the three-year period of complaints reviewed, just one incident of taser deployment on a handcuffed subject was established. In that 2004 incident, a sergeant present at the scene directed the taser application when the subject continued to kick at officers. The entire incident was documented by the chain of command, reviewed exhaustively by OPA, and sent to Training for further discussion and evaluation. The officer's taser use was found to be within policy, and effective at preventing the highly combative subject from hurting himself or others.

In one other case, a 2003 incident arising out of a protest, the deployment of the taser on a resisting subject was questioned by the OPA. In that case, there was basic agreement that she was not obeying verbal commands to put her hands behind her back, was keeping her hands clenched up beneath her chest, but was not using her arms, legs, or other body parts to resist the officers. As the reported use of taser was approved, it was presumed within current Department policy.

OPA did not take a position about whether the taser should be used in such circumstances, but asked whether the policy was consistent with any newly developed best practices in the area, and whether use of force policies in crowd control events should differ from the general use of force policy. OPA did not receive a direct response to this inquiry, but it was noted that the policy on use of less lethal force provides that such force may be used to overcome "combative or active" resistance. These terms are not defined, and there is no reference to "passive" resistance.

The issue of application of force to passively resisting subjects is another area for further policy discussion.

Management of Taser Deployment

In two cases, OPA raised questions about supervision of taser deployments at the scene. One 2004 case involved a taser deployment by a King County deputy, working alongside off-duty SPD officers at a sporting event. An SPD supervisor directed the King County deputy to deploy her taser on a combative subject. OPA cautioned that, even with no knowledge of the training, skill, or policy in effect at King County, SPD would likely be primarily or at least jointly liable for the deputy's actions in such circumstances.

In a 2005 case, several taser-equipped officers at one scene each deployed their taser on the subject. OPA noted that policy direction and training should be provided to ensure that taser deployment was coordinated.

Taken together, the issues noted support the need for further consideration of existing policy. The policy may provide inadequate guidance to officers, and, in certain respects, may be out of step with reasonable community expectations.

H. POLICY RECOMMENDATIONS

Previous Policy Recommendations

This Report refers to several previous OPA policy recommendations related to use of force: clarification of use of force reporting policy as applied to “takedowns;” training on de-escalation; training on response to onlookers; training emphasizing the importance of consistent and uniform reporting of use of force; installation of recording cameras at precincts and holding areas; and consideration of questions related to taser use on passively resisting subjects, inaccuracy of taser data, concerns over off-duty supervisors directing non-SPD employees in taser use, and management of deployment at the scene by multiple taser officers.

In addition to these recommendations referred to herein, OPA has made several other policy recommendations related to use of force, i.e., ensuring citizen riders are listed as witnesses on use of force forms, cautioning about the use of bicycles as mobile fencing, ensuring that involved officers do not participate in the screening of force; and the use of Garrity admonishments in use of force reports. These recommendations have been previously reported.

New Policy Recommendations

New to this report are (1) Recommendations for Discussion and Analysis of Use of Force and Race; and (2) Recommendations for an OPA-IS Response to Critical Incidents.

Recommendation regarding Use of Force and Race

The data on the high percentage of complainants of color deserves a swift and strong response. Further study and analysis is important, but immediate discussion throughout the Department is critical.

Since the public furor and media attention to biased policing has subsided, so too has the degree of engagement by law enforcement to matters of race. The City has yet to release information about the study of traffic stops and searches that it pledged in 2002 to undertake.

The Department does participate in the Executive's Race and Social Justice Strategic Plan, which pulls together varied Department initiatives. In addition, the department has recently scheduled a workshop to provide management training in cultural awareness in a public safety environment, and leadership issues surrounding race and social justice. The Department is also exploring an innovative training program developed in the Simon Wiesenthal Center in Los Angeles, "Tools for Tolerance."

These efforts are promising signs. Complacency is shortsighted, and ill suited to a city and department that aspire to race equality and social justice.

The discovery of the disproportion in the race of use of force complainants could be used as a springboard for the dormant discussion on race and policing. OPA is at its highest and best use when included in department and citywide initiatives. It is recommended that OPA join the Department and the City in an invigorated, highly visible, and strongly supported initiative aimed at both prompt action and an ongoing, long-term response.

Recommendation re OPA-IS Response to Critical Incidents

The Seattle Police Department has a low rate of use of significant force, and a low rate of force resulting in significant injury. And, for the most part, use of force screening and documentation by the chain of command is diligent and of high quality.

At the same time, of the over seven hundred force incidents reported in each year of the review period, OPA is not aware of any where a reviewing commander found a policy violation. Outside of one officer-involved shooting found out of policy by the Firearms Review Board, no force incident has ever been referred to OPA for further investigation.

Significant force events represent a serious use of the power and authority of a police officer. They merit a heightened response and scrutiny from outside the chain of command. Many departments have adopted protocol calling for an on-scene response by a designated unit, usually within internal affairs or the professional standards unit. Several also have members of their civilian review entities respond to such incidents as well.

OPA recommends development of a protocol that calls for an on-scene response by OPA to critical incidents. Based on review of policies in other jurisdictions, and the three-year review of use of force cases, such a response is recommended when the following criteria are present:

- Officer-involved shootings (including “misses” and accidental discharges)
- Substantial force, with or without serious injury, to include: multiple tasing; strikes to face; multiple/sustained application of force
- Substantial injury: treatment at hospital
- Significant force while subject in custody
- Force on restrained subject, with or without injury
- Accidental injury to subject caused by officer, i.e., hit with bike/car, tripped/fell, hit head on patrol car, etc.
- Force used on following individuals: juveniles under or presumed under 16; females known or believed to be pregnant; individuals with significant physical or mental disability
- At request of supervisor at scene (advised in incidents with significant potential for citizen complaint, tort claim, media attention, etc.)

Response by OPA to the scene of critical incidents does not presume an OPA investigation for policy violations. Rather, protocol could include a screening function by OPA, with the discretion to preempt, shadow, or defer to the standard chain of command investigation.

Presence and input by personnel outside of the chain of command at the scene of critical incidents would enhance objectivity and build public trust. It is time that the Department takes this step toward greater accountability.